REMARKS

Reconsideration is respectfully requested.

Claims 19, 22 through 25, 33 through 39, and 55 through 66 remain in this application. Claims 1 through 18, 20, 21, and 26 through 32 have been cancelled. Claims 40 through 54 have been withdrawn. No claims have been added.

Entry of the above amendment to the claims are respectfully requested. It is submitted that the changes to the language of the claims further differentiate the claims from the allegedly obvious combination of Ebisawa (USPN 5,946,664, hereinafter "Ebisawa") and Margulis (USPN 6,456,340, hereinafter "Margulis").

More specifically, claim 19 requires, in part, "a removable content disposed at a position within the *moving video images* of the source content for providing a virtual product location, *the virtual product location being movable within the video frame* of the source content as the moving video images are presented" and "wherein the communication assembly is configured to cause the virtual product source to place the virtual product within the source content of the removable moving media *at the position of the removable content disposed within the video frame* of the source content. Claim 33 has also been amended to require, in part, "an original moving media content source comprising moving video images presented within a video frame and including a removable content within the moving video images of the source content, the removable content providing a virtual product location at a position in the moving media, *the virtual product location being movable within the video frame of the source content as the moving video images are presented*" and "*wherein the position of the virtual product location relative to the moving media is updated by repositioning the virtual product location of the removable content relative to the video frame of the source content* as the moving video images of the

source content are presented". Claims 55, 56 and 66 have been similarly but not identically amended.

It was alleged in the final rejection of the claims in the Office Action that (emphasis added):

> With respect to the newly amended feature of updating the position of the virtual product location in the removable moving media through repositioning of the removable content relative to the source content (i.e. In Figures 1A-1B, and Figures 2A-2B, In order for advertisements A and C to be replaced with advertisements B and D, the location of advertisements A and C has to be changed in order for advertisements B and D to take it's place. Therefore advertisements B and D's location is also updated or improved from a non-display location to a display location).

However, the allegation that "the location of A and C *has to be changed* in order for advertisements B and D to take it's place" appears to not be based upon what Ebisawa actually teaches, but instead appears to be based upon what the Patent Office believes *should* or *might* happen. As previously pointed out, and reiterated here, when one of ordinary skill in the art looks to the actual disclosure of the Ebisawa patent, particularly Figures 1A and 1B, one of ordinary skill in the art sees that as the sequential advertisement data elements "A" and "B" in the Ebisawa system are interchanged, the position of the data elements does not change. More specifically, Ebisawa clearly shows in these drawings figures that the positions of the advertisement data elements on the screen in Figures 1A and 1B is *identical*, and thus *is not changed* or "reposition[ed]... *relative to the source content*" as required by the claims.

One can speculate that the position of the advertisement data elements "A" and "B" is changed in the Ebisawa system, but that is merely speculation of what one might believe "has to be", and not an actual teaching or disclosure of the Ebisawa patent. Perhaps the Patent Office is relying upon an "inherent" teaching of the Ebisawa patent (which was not identified in the Office Action), but when the Ebisawa patent discloses the

position of the advertisement data elements "A" and "B" as identical and unchanging (such as in Figures 1A and 1B), this appears to be inconsistent with any "inherent" teaching of changing positions.

In the "Response to Arguments" portion of the final Office Action, it is contended that:

> Applicant argues that Ebisawa doesn't teach that the position of the removable content relative to the source content may be updated. The Examiner respectfully disagree with Applicant because in Ebisawa the location of advertisement B and D are updated. In Figures 1A-1B, and Figures 2A-2B, In order for advertisements A and C *to* be replaced with advertisements B and D, the location of advertisements A and C *has to be changed* in order for advertisements B and D to take it's place. Therefore advertisements B and D's location is also updated or Improved from a non-display location to a display location.

Again, this portion of the remarks in the Office Action relies upon the belief that "the location of advertisements A and C *has to be changed*". The language of the claims addresses the *positioning* of the "removable content *relative to* the source content", and not merely the content of advertisements, and thus the claim language requires that the position of the removable content relative to the source content be updated, and not merely that the content of the advertisement be updated.

The distinction between what Ebisawa shows and the requirements of the claims becomes even clearer when one looks to the disclosure of the Ebisawa, such as at col. 5, lines 35 through 50, where it states:

> In either case, commercial advertisements are kept "current", and since the amount of advertisement data is relatively small compared to the size of the game program itself, the amount of "download" time is small in the first discussed embodiment. Of course, the download time of advertisement selection code S in the second discussed embodiment is insubstantial.
>
> In accordance with the present invention, updated or "new" advertisement data is downloaded or a new advertisement selection code is downloaded each time a game program is executed. However, such data need not be downloaded every time the game program is executed, and instead, may be downloaded only on a new day or a new

week (or month) on which the game program is executed.

As can be appreciated from this portion of the Ebisawa patent, it lacks any discussion of the updating of the *position* of the "advertisement data" in the game (in contrast to the updating of the *content* of the advertisement), and therefore it is submitted that Ebisawa would not lead one of ordinary skill in the art to "repositioning of the removable content relative to the source content" as required in claim 19, or the similar requirements in the other independent claims.

In summary, it is submitted that one of ordinary skill in the art, considering the disclosure of the Ebisawa patent, would be led to "advertisement data A, B, C, and D" that is uniformly located in the same *location*, even as the advertisement data displayed is changed from A to B to C to D, and so forth. Considering Figures 1A and 1B of the Ebisawa patent, it is clear that the position of the advertisement data *remains the same* and that there is no updating of the position of the advertisement data. Similarly and consistently, Figures 2A and 2B show the substitution of "D" for "C" in the video game, but the position is clearly not changed or updated.

It is therefore submitted that not only does the Ebisawa not lead one of ordinary skill in the art to "the communication assembly is configured to cause the virtual product source to place the virtual product within the source content of the removable moving media at the position of the removable content disposed within the video frame of the source content", as the Ebisawa could only lead one of ordinary skill in the art toward a consistent, unchanging location for its advertising data that is not updated when the advertisement data is changed. It is therefore also submitted that the allegedly obvious combination of Ebisawa and Margulis would not lead one of ordinary skill in the art to the combination of requirements of claims 33, 55, 56, and 66, and in particular the requirements set forth above.

Again, it is submitted that the position taken in the final Office Action is internally inconsistent, especially when it is alleged that (emphasis added):

> The Examiner disagrees with Applicant because in Ebisawa on col. 3, lines 29-34, it recites "As seen from both FIGS. 1A and 1B, advertisements "A" and "B" are displayed in the same scene of the auto racing program (of course, at different times) and advertisements "C" and "D" also are displayed in the same scene of the auto racing program". Therefore as can be seen from the above passage, the advertisements are displayed on the same location at different times therefore the location of the advertisements change in order to clear the space for the other advertisements to take its place.

It is submitted that the highlighted statement in the paragraph above is at the heart of the disagreement in this case, as in the same sentence the Examiner has taken the position that displaying advertisements in the *same* location is *changing* the location of the advertisement. There does not appear to be any way to reconcile this statement that resolves the inherent conflict within this statement. As noted above, the rejections appear to rest upon the notion that merely changing *what* is displayed at a (same) location is actually changing *the* location. In any event, claim 19 (as well as the other claims) requires the *repositioning*, or updating the position through repositioning, of the removable content with respect to the source content.

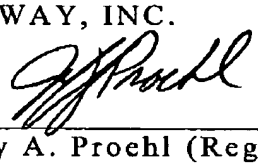
Withdrawal of the rejection of claims 19, 22 through 25, 33 through 39, and 55 through 66 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

GATEWAY, INC.

By  Date: March 28, 2007

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